

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

DAMON A. MYERS,)	
)	
Plaintiff,)	
vs.)	1:10-cv-0040-WTL-TAB
)	
)	
ELIZABETH L. WHITE,)	
)	
Defendants.)	

Entry and Order Directing Dismissal of Action

I.

The plaintiff's motion to proceed *in forma pauperis* (dkt 2) is **granted**. No assessment of an initial partial filing fee is feasible at this time.

II.

Because the complaint in this action lacks sufficient factual content to allow the court to draw the reasonable inference that the defendants are or could be liable for the misconduct alleged, *Bissessur v. The Trustees of Indiana University*, 581 F.3d 599 (7th Cir. 2009)(citing *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1948 (2009), and *Bell Atlantic Corp.*), the action must be dismissed pursuant to 28 U.S.C. § 1915A(b) for failure to state a claim upon which relief can be granted. *Lagerstrom v. Kingston*, 463 F.3d 621, 624 (7th Cir. 2006). In addition, "a plaintiff can plead himself out of court by alleging facts which show that he has no claim." *Jackson v. Marion County*, 66 F.3d 151, 153 (7th Cir. 1995).

The plaintiff's action is brought pursuant to 42 U.S.C. § 1983. A viable claim under § 1983 requires the assertion of the violation of a federal right, *Middlesex County Sewerage Auth. v. Nat'l Sea Clammers Ass'n*, 453 U.S. 1, 19 (1981).

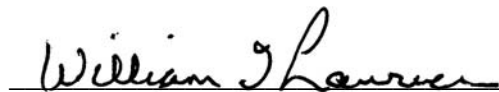
The plaintiff's claim that the defendant clerk erred in refusing to withdraw a matter under Indiana Trial Rule 53.2 does not support a viable claim under § 1983. *Scott v. Edinburg*, 346 F.3d 752, 760 (7th Cir. 2003)("42 U.S.C. § 1983 protects plaintiffs from constitutional violations, not violations of state laws or, in this case, departmental regulations and police practices.").

III.

For the reasons explained in Part II of this Entry, the complaint fails to survive the screening required by § 1915A because it fails to contain a legally viable claim. Dismissal of the action pursuant to 28 U.S.C. § 1915A(b) is therefore mandatory, *Gladney v. Pendleton Corr. Facility*, 302 F.3d 773, 775 (7th Cir. 2002), and judgment consistent with this Entry shall now issue.

IT IS SO ORDERED.

Date: 01/14/2010

A handwritten signature in black ink, reading "William T. Lawrence", written over a horizontal line.

Hon. William T. Lawrence, Judge
United States District Court
Southern District of Indiana